United Nations S/2007/676

Security Council

Distr.: General
20 November 2007

Original: English

Letter dated 16 November 2007 from the President of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 addressed to the President of the Security Council

I have the honour to transmit herewith the assessments of the President and the Prosecutor of the International Criminal Tribunal for Rwanda on the implementation of the completion strategy of the Tribunal, pursuant to Security Council resolution 1534 (2004) (see enclosure).

I should be grateful if you would transmit the enclosed report to the members of the Security Council.

(*Signed*) Sir Dennis **Byron**
President

07-60355 (E) 061207

Enclosure

[Original: English and French]

Report on the completion strategy of the International Criminal Tribunal for Rwanda

Introduction 3

1. Activities in Chambers 3

1. Activities at first instance 3

2. Activities at the Appeals Chamber 6

2. Measures taken to implement the completion strategy 7

1. Trial Proceedings 7

2. Transfer of Files by the Prosecutor to National Authorities and Referral of Cases to Competent National Jurisdictions 9

3. Securing the Arrest and Transfer of Indicted Persons at Large and New Indictments 10

4. *Ad litem* Judges 12

5. Staff Management 12

6. Cooperation of States with the International Tribunal 13

7. Outreach and Capacity-building 13

8. Legacy of the Tribunal 14

9. Updated Prognosis Regarding the Implementation of the Completion Strategy 14

Conclusion 15

Annex 1 17

Annex 2(A) 19

Annex 2(B) 21

ANNEX 3(A) 22

ANNEX 3(B) 22

ANNEX 3(C) 23

INTRODUCTION

1. This report is submitted to the Security Council pursuant to its Resolution 1534 (2004), in which the Council requested the Tribunal "to provide to the Council, by 31 May 2004 and every six months thereafter, assessments by its President and Prosecutor, setting out in detail the progress made towards implementation of the Completion Strategy of the Tribunal, explaining what measures have been taken to implement the Completion Strategy and what measures remain to be taken, including the transfer of cases involving intermediate and lower rank accused to competent national jurisdictions".

2. In its Resolution 1503 (2003), the Security Council urged the International Criminal Tribunal for Rwanda ("Tribunal") to formalize a strategy in order to allow it to achieve its objective of completing investigations by the end of 2004, all trial activities at first instance by the end of 2008, and all of its work in 2010 ("Completion Strategy").

3. The present report outlines the progress made by the Tribunal towards implementation of its Completion Strategy as of 16 November 2007. It should be read in conjunction with the previous reports submitted to the Security Council.[1]

1. ACTIVITIES IN CHAMBERS

4. On 13 June 2006, the Security Council adopted Resolution 1684 (2006), which extended the terms of office of all permanent Judges of the Tribunal until 31 December 2008. On 13 October 2006, Resolution 1717 (2006) extended the terms of office of all *ad litem* Judges of the Tribunal until the same date. In its Resolution 1774 (2007) of 14 September 2007, the Security Council renewed the term of office of the Prosecutor. This provides the Tribunal with the continuity, stability and certainty necessary for the efficient and effective planning and conduct of trials.

1. Activities at first instance

5. Since the last Completion Strategy report, the three Trial Chambers of the Tribunal have continued to operate at full capacity. These trials have involved 11 cases concerning 24 accused, including in the case of one guilty plea. An overview of those trial proceedings is presented in Annex 1. In addition, where adjournment of proceedings became necessary (due to

[1] A first version of the Tribunal's Completion Strategy was submitted to United Nations Headquarters on 14 July 2003. That document was prepared within the context of General Assembly resolution 57/289 (2003), para. 15 (a), which provided that the proposed budget of the ICTR for 2004-2005 should include "detailed information as to how the resources requested for the biennium would support the development of a sound and realistic completion strategy". A second version of the ICTR Completion Strategy was submitted to United Nations Headquarters on 29 September 2003 and formed the basis of the ICTR request to increase the number of *ad litem* judges sitting "at any one time" from four to nine. Completion Strategy reports were submitted to the President of the Security Council on 30 April 2004, 19 November 2004, 23 May 2005, 30 November 2005, 29 May 2006, 8 December 2006, and 31 May 2007 respectively.

illness of accused or counsel, failure of witnesses to appear, or other unforeseen circumstances), the Trial Chambers took advantage of the opening in the courtroom schedules by holding pre-trial hearings in other proceedings, including status conferences, with a view to facilitating trial-readiness. Between June and December 2007 ("reporting period"), initial appearances were also held, again taking full advantage of any gaps in courtroom schedules.

6. Since June 2007, in addition to the 27 completed cases involving 33 accused, there has been one conviction on a plea of guilty (in the case of Juvenal Rugambarara) and four single-accused cases have been completed and await judgement. Sentence in the Rugambarara case was passed on 16 November 2007. A fifth trial is expected to be completed by the end of the year. One judgement concerning another accused is expected to be delivered by the end of this year. An overview of completed case as well as of the cases which judgements will be delivered in early 2008 is presented in Annexes 2 (A) and (B).

7. Since the last report on the completion strategy, Trial Chamber I commenced hearing the Prosecution evidence in the case of Hormisdas Nsengimana. The first trial session concluded on 29 June 2007. As all four courtrooms of the Tribunal will be fully occupied until the end of this year, this trial is scheduled to resume on 14 January 2008. It is expected that the Prosecution case will require a session of less than six weeks to complete. Between June and September 2007, Trial Chamber I also concluded the defence case in Tharcisse Renzaho. The trial closed on 6 September 2007. Closing arguments are scheduled for February 2008, with judgement expected in the first of half of 2008. In addition, Trial Chamber I continued pre-trial work in relation to five cases, which included pre-trial hearings in all cases (Jean-Baptiste Gatete, Callixte Kalimanzira, Gaspard Kanyarukiga, Yusuf Munyakazi and Ephrem Setako).

8. During the reporting period, Trial Chamber I has been writing judgement in two cases which were completed earlier this year. Judgement in the case of François Karera will be delivered before the end of 2007. The *Military I* trial, which concerns four co-accused (Théoneste Bagosora, Gratien Kabiligi, Aloys Ntabakuze and Anatole Nsengiyumva), closed on 1 June 2007 after 408 trial days, during which 242 witnesses testified, and 1,584 exhibits tendered into evidence. The judgement is expected in the first half of 2008.

9. Since June 2007, Trial Chamber II has been engaged in four trials concurrently. The trial in the case of six accused, Pauline Nyiramasuhuko, Arsène Shalom Ntahobali, Sylvain Nsabimana, Alphonse Nteziryayo, Joseph Kanyabashi and Elie Ndayambaje (*Butare* case), resumed in July 2007. This case involves the largest number of accused jointly tried at the Tribunal and has a complex procedural history.[2] The fifth of the six accused is continuing the presentation of his case. In the period starting from Mid-August to Mid-December 2007, the *Butare* Trial Chamber will have sat a total of 15 weeks out of 17 calendar weeks available.

[2] One of the judges in this Chamber was not re-elected for the third mandate (2003-2007). In resolution 1482 (2003), the Security Council did not extend his mandate for the purpose of enabling him to continue sitting on the Butare case. On 15 July 2003, the Chamber decided that the trial should continue with a substitute judge under Rule 15 *bis* of the Rules of Procedure and Evidence ("the Rules"). Appeals against this decision were dismissed by the Appeals Chamber on 24 September 2003.

10. Trial Chamber II continued the hearing in the case of Casimir Bizimungu, Justin Mugenzi, Jérôme Bicamumpaka and Prosper Mugiraneza (*Bizimungu et al.* case). This trial was initially scheduled to resume on 13 August 2007 for the presentation of the defence case for the third accused, Jérôme Bicamumpaka. However, due to the sudden death of his Lead Counsel in August, and mindful of the need to consider the rights of the accused and the interests of justice, the Trial Chamber decided to postpone the resumption of the proceedings. Despite this unexpected circumstance, in consultation with the parties, the Trial Chamber limited the period of delay to one month, and the trial proceedings were resumed in September 2007. As of 9 November 2007, two thirds of the defence case for Bicamumpaka was completed.

11. While the *Butare* and *Bizimungu et al.* trials were in progress, the *Rukundo* trial resumed before a third Section of Trial Chamber II with the continuation of the Defence case. It closed on 22 October 2007. The same Section of Trial Chamber II then resumed the proceedings in the *Military II* case, which involves Augustin Ndindiliyimana, Augustin Bizimungu, Francois-Xavier Nzuwonemeye and Innocent Sagahutu, for the continuation of the presentation of the defence for the first co-accused. The Chamber anticipates starting the defence for the second co-accused, Augustin Ndindiliyimana, in early 2008. This same Section of Trial Chamber II further held a sentencing hearing on a guilty plea in the case of Juvenal Rugambarara on 13 July 2007.

12. Since June 2007, three different Sections of Trial Chamber III heard three proceedings concerning five accused concurrently. The *Siméon Nchamihigo* trial concerned one accused and resumed on 27 August 2007. It concluded on 21 September 2007. The parties' closing arguments are scheduled for early January 2008. On 24 September 2007, in the single accused case of *Bikindi*, the Defence commenced the presentation of its case. The trial concluded on 7 November 2007. The presentation of the Defence case had been delayed as a result of the withdrawal of the Lead Counsel for the accused. The case is now completed. The parties' closing arguments are scheduled for March 2008. Judgements in both *Nchamihigo* and *Bikindi* cases are expected in the first half of 2008. In the case of Edouard Karemera, Mathieu Ngirumpatse and Joseph Nzirorera (*Karemera et al.*), the trial resumed on 1 October 2007 for the continuation and completion of the Prosecution case by the December 2007. The Defence case will commence in early 2008. The trial of Protais Zigiranyirazo is scheduled to resume on 19 November 2007 with the continuation of the defence case before a Section of Trial Chamber III. This trial is expected to conclude by 14 December 2007. Moreover, in the same case, the Trial Chamber has conducted a site visit in Rwanda. In addition to these trial proceedings, Trial Chamber III has taken advantage of the judicial recess and gaps in courtroom schedules by holding initial appearances, including the first case of contempt pending before the Tribunal.

13. Furthermore, while trial proceedings were ongoing, Trial Chambers conducted deliberations concerning the referral of cases of six accused to national jurisdictions under Rule 11*bis* of the Rules of Procedure and Evidence of the Tribunal ("Tribunal's Rules"). In addition, since June 2007, in addition to a judgement on a guilty plea, Trial Chamber Judges have delivered more than 90 interlocutory and pre-trial decisions on such matters as disclosure of evidence, adjudicated facts, and admissibility of witness statements in lieu of oral testimony.

14. In the last report on the Completion Strategy, it was noted that eight detainees were awaiting trial. As of today, one guilty plea was entered for one of them (Juvenal Rugambarara). The judgement in that case was delivered on 13 July 2007 and sentence was passed on 16 November 2007. The trial of another detainee (Hormisdas Nsengimana) was commenced on 22 June 2007 and is expected to be concluded by 2008.

15. The cases of the six remaining detainees awaiting trial are ready for trial. Details appear in Annex 3. These cases are all single-accused trials. Some of them will commence in early 2008, depending on Trial Chamber and courtroom capacity. All are expected to be concluded by the end of 2008. The Prosecutor has requested the referral of the cases of three of the six detainees to domestic courts, pursuant to Rule 11*bis* of the Tribunal's Rules. Trial Chambers are currently deliberating on those applications. It is anticipated that decisions on these requests will be rendered shortly.

16. The projections made in May 2007 need, however, to be reassessed as a result of the revocation of the referral of one accused. Following Trial Chamber's Decision of 13 April 2007, the case of Michel Bagaragaza, together with the accused were transferred to the Netherlands for trial.[3] However, as a result of a decision rendered in July 2007 by a Dutch court, the Dutch authorities considered that they had no jurisdiction to try Bagaragaza.[4] Consequently, the Trial Chamber, at the request of the Prosecutor, issued a deferral order pursuant to Rule 11 *bis* (F), the effect of which was the reversal of the earlier decision referring the case to the Netherlands. The Prosecutor expects that Bagaragaza will be transferred from the Netherlands back to the Tribunal as soon as it is practicable.

2. Activities at the Appeals Chamber

17. In the Appeals Chamber, final judgements in two cases concerning three accused (Jean-Bosco Barayagwiza, Ferdinand Nahimana and Hassan Ngeze in the *Media* case), and one accused (Aloys Simba), respectively, are scheduled for delivery on 27 and 28 November 2007. This will bring to 24 the total number of persons whose appeals have been completed. In addition, since June 2007, the Appeals Chamber rendered three decisions disposing of interlocutory appeals, one decision concerning referral, three decisions concerning review or other requests, and 28 pre-appeal orders and decisions. Presently, the Appeals Chamber has two pending appeals from judgements (Tharcisse Muvunyi and Athanase Seromba) and expects to render judgement in these cases in the first quarter of 2008.

---

[3] The Prosecution request to transfer the case against Michael Bagaragaza to Norway was rejected by the Trial Chamber on 19 May 2006. This decision was upheld by the Appeals Chamber on 30 August 2006. Following the identification of another State willing to receive this case, a fresh request for transfer of this case for trial in a national jurisdiction was lodged in December 2006. On 13 April 2007, the Chamber approved the referral of the Bagaragaza case for trial in The Netherlands.

[4] This took place after a Netherlands District Court rendered a decision in which it found, *inter alia*, that it did not have jurisdiction to try a Rwandan citizen, Joseph Mpambara, for genocide. As the Dutch Prosecutor had intended to assert the same jurisdictional bases to try Mr. Bagaragaza for genocide as it had for Mr. Mpambara, the Prosecutor of the Tribunal considered that revocation was rendered necessary. This request was supported by the Dutch authorities.

2. MEASURES TAKEN TO IMPLEMENT THE COMPLETION STRATEGY

18. The prior reports to the Security Council have detailed the measures taken by the Tribunal to implement the Completion Strategy. Steps are continuously being taken to improve and expedite trial proceedings. The Prosecutor continues his consultations with States regarding the transfer of files of suspects and referrals of cases to domestic jurisdictions. Ongoing measures are being taken to secure the arrest and transfer of indicted persons still at large. As the report shows, the Tribunal is moving expeditiously towards the completion of its work. This has been made possible thanks to the dedicated and committed work of the President, the Prosecutor, Judges, the Registrar and staff of the Tribunal. The cooperation and assistance of the Member States, however, remains crucial to achieving this goal. Furthermore, the Tribunal continues to provide support to capacity-building in Rwanda, and put strategies in place to address the legacy and residual issues which will arise after the closure of the Tribunal.

1. Trial Proceedings

19. With about 14 months left until the end of December 2008, the completion of all trials at first instance will require strong management of the judicial calendar, taking into account the Trial Chamber and courtroom capacity. The Trial Chambers recognize the need to take steps to maintain and strengthen the trial-readiness of those cases due to commence in early 2008 in addition to managing ongoing proceedings. Those steps are described hereinafter.

20. Following the Tribunal's request of 9 July 2001, the Security Council amended the Statute of the Tribunal by creating a pool of eighteen *ad litem* Judges.[5] The purpose of this reform, which followed a similar Security Council resolution for the International Criminal Tribunal for Former Yugoslavia ("ICTY") in 2000, was to enhance the judicial capacity of the Tribunal. The arrival of those *ad litem* Judges greatly contributed to speeding up the work of the Tribunal as well as increasing its achievements.

21. Currently, the Tribunal benefits from the service of nine *ad litem* Judges. According to Statute of the Tribunal, a Trial Chamber Section must be comprised of both permanent and *ad litem* Judges. This implies that the number of *ad litem* Judges who can be appointed to do trials at the Tribunal is limited by the number and availability of permanent Judges.[6]

22. In 2007, nine Trial Chamber Sections of the Tribunal were conducting proceedings in 13 different cases. Furthermore, additional Sections were designated to deal with pre-trial matters and referrals in other proceedings, where necessary. In order to optimize the use of courtroom allocation and work of these Sections, the judicial calendar of all the ongoing cases was designed on a "twin-track" basis. This means that to the extent possible, two trials are heard by the same Trial Chamber in consecutive slots.

---

[5] Resolution 1431(2002), 8 August 2002.

[6] Five of the nine permanent judges were engaged in voluminous trials: two permanent judges sit in the *Butare* trial and three were sitting in the *Military I* trial. The Military I trial concluded May this year.

23. The purpose of this "twin-tracking" system is to use the inevitable breaks during one trial to ensure progress of another case. Such breaks allow the Prosecution and the Defence to prepare for the next stage of the proceedings. Twin-tracking of two big cases is cumbersome. Experience shows that the best model is to twin-track one big and one small case, unless the big case is particularly voluminous and complex. When required, the Tribunal is also using a "shift system", which ensures that one courtroom is used for two cases heard in morning and afternoon sessions, respectively.

24. Calculations and projections for new single-accused trials are premised on an eight to twelve trial week average per case (four to six weeks for the Prosecution case and then the same time-frame for the Defence case). Generally, no more than 20 to 25 witnesses will be called by the Prosecutor to testify in court. It is assumed, as a working tool, that the total time taken for the cross-examination of a Prosecution witness will normally not exceed the total time taken for the examination-in-chief of that witness.

25. For all ongoing cases, the time needed for the presentation of the Defence case is based on that assumption that it generally does not exceed the time required for the presentation of the Prosecution case. Experience shows that it may sometimes take less time. However, in multi-accused trials, the time taken for cross-examination often exceeds the time taken in examination-in-chief, particularly if the witness gives evidence implicating more than one accused.

26. Moreover, the Trial Chambers have progressively developed and adopted time-standards and practice directives in the management of their respective cases. This allows a firm control over the proceedings and the avoidance of undue delays, while upholding the rights of the Prosecutor to present a fair case and that of the accused to a fair trial.

27. The trial-readiness of the cases has consistently improved. Experience has shown that the better the trial is prepared at the pre-trial stage, the fewer the delays and interruptions will arise during the trial proceedings. Some delays may occur, for instance, where that the Prosecution or Defence counsel requires additional time to prepare to cross-examine a witness. This situation generally occurs in circumstances where unexpected evidence emerges or evidence is tendered without proper notice. The Trial Chambers take the view that they must be mindful of the interests of justice, the fairness of the trial and the rights of the accused, and allow the Prosecution and Defence additional time in such circumstances.

28. The Trial Chambers have effectively used pre-trial and pre-defence status conferences to streamline trial proceedings, identifying with the parties issues to be solved in order to facilitate and expedite the proceedings. In particular, disclosure issues that may affect the expeditiousness of the proceedings are monitored at the pre-trial stage. It is common practice that at the commencement of the trial, the parties are ordered to file briefs addressing the factual and legal issues, identifying contested matters, and provide a list of witnesses they intended to call, along with a summary of the facts and the specific allegations in the indictment on which the witnesses will testify. Trial Chambers have further requested the parties to give an estimate of the time each witness will require to give evidence. Where

appropriate, considering the interests of justice, Trial Chambers have ordered a reduction in the number of witnesses and the time allotted for witnesses to give evidence-in-chief. The admission of written statements and transcripts of witnesses *in lieu* of oral testimony under specific circumstances pursuant to Rule 92 *bis* of the Rules also had a significant impact on the length of the proceedings, particularly in multi-accused cases.[7]

29. The Tribunal has taken several steps to minimize other factors which contributed to delays and interruptions in ongoing proceedings, such as illness on the part of counsel and the difficulty in obtaining the appearance of witnesses from Rwanda. Defence teams are composed of a Lead Counsel and a Co-Counsel, so that, in the event of illness or absence of one counsel, proceedings may continue with the remaining counsel. Most of the witnesses who appear before the Trial Chambers are from Rwanda. It is important to ensure the continuation of the flow of these witnesses to the Tribunal. However, experience shows that it is difficult to ensure that witnesses are always available. Therefore, delays do occur sometimes. The Witness and Victims Support Section continues to provide essential support to the Chambers and parties to the proceedings to minimise delays by, for example, ensuring the attendance of witnesses in Arusha to replace scheduled witnesses who may be unavailable at the time.

30. Guilty pleas have reduced the length of trials. Experience shows that one day is sufficient time for a Chamber to satisfy itself that a guilty plea is informed, unequivocal, and made freely and voluntarily. The writing of the judgment in such cases requires limited time, typically an average of two to three months and not longer than four months. It is difficult at this stage to estimate how many indicted persons may in future plead guilty.

2. Transfer of Files by the Prosecutor to National Authorities and Referral of Cases to Competent National Jurisdictions

31. According to the Tribunal's mandate, as set forth by its Statute and Security Council Resolutions 1503 (2003) and 1534 (2004), the prosecution of individuals at the Tribunal should be focused on those who allegedly were in positions of leadership, and those who allegedly bear the greatest responsibility for the genocide. As already recalled, in accordance with the applicable provisions of the Tribunal's Rules, in cases where an indictment against an accused has already been confirmed, the decision to refer the indictment to national jurisdictions is a judicial one.

---

[7] Rule 92*bis* (A) reads:
(A) A Trial Chamber may admit, in whole or in part, the evidence of a witness in the form of a written statement in lieu of oral testimony which goes to proof of a matter other than the acts and conduct of the accused as charged in the indictment. (i) Factors in favour of admitting evidence in the form of a written statement include, but are not limited to, circumstances in which the evidence in question: (a) is of a cumulative nature, in that other witnesses will give or have given oral testimony of similar facts; (b) relates to relevant historical, political or military background; (c) consists of a general or statistical analysis of the ethnic composition of the population in the places to which the indictment relates; (d) concerns the impact of crimes upon victims; (e) relates to issues of the character of the accused; or (f) relates to factors to be taken into account in determining sentence. (ii) Factors against admitting evidence in the form of a written statement include whether: (a) there is an overriding public interest in the evidence in question being presented orally; (b) a party objecting can demonstrate that its nature and source renders it unreliable, or that its prejudicial effect outweighs its probative value; or (c) there are any other factors which make it appropriate for the witness to attend for cross-examination.

32. Bearing in mind this principle, the Prosecutor is continuously reviewing his files to determine which cases may be suitable for referral to national jurisdictions for trial. The Prosecutor continues to hold discussions with States regarding the referral of cases to national jurisdictions for trial. He will also continue to transfer to Rwanda and other interested States dossiers in respect of accused persons who were investigated but not indicted by his office. Among the considerations relating to the referral of cases to national jurisdictions is the confidence that the accused will receive a fair trial at the state he is referred to, the Prosecutor uses various guidelines to decide which of the cases should be earmarked for referral to national jurisdictions in terms of Rule 11*bis* of the Tribunal's Rules.

33. In making the determination whether to apply for the referral of any particular case to a national jurisdiction, the Prosecutor considers, among others, the alleged status and extent of participation of the individual during the genocide, the alleged connection that the individual may have had with other cases, the need to cover the major geographical areas of Rwanda, the availability of evidence with regard to the individual concerned and the availability of investigative material for transmission to a State for national prosecution.

34. In preliminary discussions with national authorities, the Office of the Prosecutor has ascertained that the laws of the State in which some suspects are present may not confer jurisdiction over these suspects or the crimes they allegedly committed. Other States have investigated the cases and not pursued them, and may be reluctant to re-open these cases. Many of the suspects are in countries where judicial systems are under strain, arising from their own national judicial and prosecution workload. The Prosecutor has explored with a number of African countries the possibility of transferring cases to African States. However, he has not yet secured an agreement with any African state, other than Rwanda, to accept referral of cases from the ICTR. Outside the African continent and in Europe specifically, the Prosecutor has so far managed to get only three agreements in this regard. In spite of those agreements, however, jurisdictional and other legal issues have not yet permitted the actual transfer of cases to those three jurisdictions. In the event that it is not possible to transfer these cases to national jurisdictions, the Prosecutor will make alternative proposals to the Security Council and highlight the related budgetary implications.

35. Since the recent abolition of the death penalty in Rwanda coupled with the adoption of new laws aimed at guaranteeing fair trial, the Prosecutor has filed three requests in terms of Rule 11*bis* for the referral to Rwanda for trial of the cases of three of the accused currently detained in Arusha and one fugitive. The requests are pending judicial determination.

3. Securing the Arrest and Transfer of Indicted Persons at Large and New Indictments

36. During the reporting period, the Prosecutor has continued to conduct diplomatic missions to several Member States of the United Nations with a view to securing their political support and cooperation for the arrest and transfer of the remaining fugitives. The Tracking Team within the Investigation Division of the Office of the Prosecutor has been re-organised and strengthened. Furthermore, following reports made by the President, the Prosecutor and the Registrar to the 19th African Interpol Regional Conference, the organisation passed a resolution

in July 2007 urging all National Central Bureaus to provide assistance to the Tribunal in arresting remaining fugitives.

37. As a result of the policy and strategy adopted by the Prosecutor, and in the period between June and October 2007, four additional fugitives were arrested by national authorities in cooperation with the Tribunal and Interpol. This brings down to 14 the number of fugitives who are still at large.

38. The Prosecutor intends to request the referral of the cases of most of these 14 fugitives to national jurisdictions for trial. Of the 14 indicted persons at large, five have been earmarked for trial at the Tribunal on the basis of the leadership roles they played during the 1994 genocide. The sixth of the fugitives earmarked for trial at the Tribunal has already been arrested and is awaiting transfer to the Tribunal. In the event that these five indicted persons identified for trial at the Tribunal are arrested and transferred to the Tribunal late in 2008, the Security Council will be requested to decide whether their trials should be conducted at the Tribunal Arusha or whether alternative arrangements should be made. The Tribunal is also awaiting the transfer of three others who were arrested recently in Europe.

39. The Completion Strategy of September 2003 indicated that 26 suspects were at large. As the Prosecutor's strategy is to prosecute before the Tribunal those persons bearing the greatest responsibility for the crimes committed in Rwanda in 1994, the number of suspects under investigation was reduced to 16 in the Completion Strategy document as of April 2004.[8] Following the completion of investigations at the end of 2004, the files involving eight of these persons were closed due to lack of evidence. Eight indictments against the remaining eight suspects were confirmed in 2005. One of these persons remains at large and is included in the fourteen fugitives mentioned above. The Prosecutor has also taken account of the mandate of the Tribunal, as emphasized by Resolution 1503, to investigate reports of violations of international humanitarian law committed in 1994 by the Rwanda Patriotic Front (RPF).

40. All investigations in respect of the genocide were completed by the end of 2004, as requested by Resolution 1503 (2003). Moreover, when the eight indictments were submitted for confirmation in 2005, the Prosecutor had ensured that these cases were ready for trial. This will ensure that there will be no delay in trial preparations when the accused is transferred to the Tribunal and the case can be more readily assigned to a new Prosecution team if necessary or referred to a national jurisdiction pursuant to Rule 11 *bis* of the Tribunal's Rules.

41. After the completion of investigations, there was a significant strategic shift from doing conventional investigations to conducting investigations in support of trials, trial preparation and appeals. Now the investigation arm of the Office of the Prosecutor concentrates on providing support in respect of ongoing trials, appeals and requests for the referral of cases to national jurisdictions. Once an individual is indicted, substantial investigations must be continued in order to support the trial team. Additional investigations may be needed to replace the evidence of witnesses who may have died, to assist in the interviewing of witnesses prior to

[8] In the November 2004 version of the Completion Strategy the number was fifteen. The correct figure is sixteen.

their travel to Arusha, to supplement and corroborate the evidence, and to address the Defence case and any necessary rebuttal.

42. Improvements in the management of information and evidence in the Office of the Prosecutor, as well as the promotion of the best prosecutorial practices, remain important initiatives towards the successful implementation of the Completion Strategy. Details are provided in Annexure 6 of the previous report.

4. *Ad litem* Judges

43. The Tribunal would not have been able to achieve the results being reported to the Security Council today without the dedication of its *ad litem* Judges.

44. *Ad litem* Judges have been facing demanding schedules with long and frequent sittings on complex cases. They have been engaged in judgement drafting and the preparation of new cases for trial, often at the same time as hearing ongoing trial proceedings. In some instances *ad litem* Judges are working on two trials simultaneously. Despite this particularly heavy workload, they have been willing to do what is required to ensure the expeditious completion of the Tribunal's mandate. The Tribunal has been greatly supported by their outstanding contribution to its work.

5. Staff Management

45. The successful implementation of the Tribunal's Completion Strategy is also the result of the dedicated work of all the staff of the Tribunal. The contribution of the staff of the Tribunal as well as their experience and motivation have been instrumental in achieving the progress reported above. It remains critical to retain that experience in order to ensure a proper completion of the mandate of the Tribunal. Their departure at this critical stage would invariably disrupt and delay the smooth progress of trials. It would also result in the loss of institutional knowledge of the cases they are involved in.

46. Current experience shows that the Tribunal is losing staff to other international tribunals such as the International Criminal Court, the Extraordinary Chambers in the Courts of Cambodia and the newly created Special Court in Lebanon. The fast approaching completion dates, combined with the recruitment drives of the other international tribunals makes the Tribunal very vulnerable to losing critical staff. The fact that the Tribunal is closing down makes it increasingly difficult to recruit replacement staff. Where recruitment is successful, especially in respect of staff involved in judicial work, time is lost in bringing the new recruits up to speed with their work. The vision of the Tribunal is therefore that all effort should be employed to retain the staff that it will need for the successful completion of its mandate.

47. Accordingly, the Tribunal needs the support of the Security Council and Member States to offer sufficient incentives to guarantee as much as possible that its most experienced staff will remain with the Tribunal until the completion of its work.

48. While the expected reduction in trial activities during the next biennium would require a corresponding reduction of staff, future arrests, especially of any of the six fugitives prioritised by the Prosecutor for trial at the Tribunal, would necessitate reverting to the General Assembly with the request for resources necessary for conducting such trials. If the remaining five fugitives earmarked for trial before the Tribunal are arrested and transferred to Arusha, it may be necessary to prosecute them even after 2008.

6. Cooperation of States with the International Tribunal

49. The continued assistance and co-operation of Members States is paramount to the successful accomplishment of the Tribunal's mandate. The need for full cooperation from States in the arrest of all fugitives has now reached a critical stage. Some of those who are allegedly most responsible for international crimes committed in Rwanda in 1994, including Félicien Kabuga, are still at large despite continuous efforts of the Prosecutor to track them and secure their arrest. Without the arrest and trial of these remaining fugitives, international justice will be evaded and the Tribunal's key objective of bringing justice, peace and reconciliation to Rwanda and the region of the Great Lakes will not be fully achieved. Moreover, it is clear that the Tribunal's mandate may require that some of the remaining fugitives be tried at the Tribunal itself. The date of their arrest and transfer to the Tribunal may impact on the ability of the Tribunal to effect timely completion of all trials at first instance.

50. In addition to the arrest of fugitives, other critical issues which require the continuous assistance and support of Member States include the referral of cases to national jurisdictions, the serving of sentences of convicted persons, and the relocation of convicted persons who have served their sentences and of acquitted persons.

7. Outreach and Capacity-building

51. Justice is an essential element for bringing about and sustaining peace and reconciliation. One of the central goals of the Tribunal is contributing to national reconciliation in Rwanda by making sure that the Rwandan people have an understanding of and confidence in the work of the Tribunal. Another goal is to contribute to strengthening the Rwandan judicial system. This is a key component of the Tribunal's mandate to bring justice, stability and reconciliation to the Great Lakes region. As such, the Tribunal's initiatives through its Outreach Programme include the establishment of provincial information centres and community workshops throughout Rwanda, to the international internship and legal researcher schemes in Arusha. Details concerning these projects, and the many other component parts of the Outreach Programme were provided in Annex 5 of the previous report on Completion Strategy. A number of these programmes are funded through the financial assistance of the European Commission which has up to now boosted the Voluntary Trust Fund of the Tribunal. However, the Voluntary Trust Fund is currently severely depleted. Accordingly, Member States are encouraged to provide resources sufficient to realize the expectations of the Security Council and to support the vital work of the Outreach Programme in protecting the Tribunal's legacy.

8. Legacy of the Tribunal

52. For over two years now, in close cooperation and liaison with the ICTY, the Tribunal has focused attention on its legacy and most crucially on mechanisms necessary for disposing of residual issues when the Tribunal completes all trials and appeals on its dockets. Draft reports on these issues have been the subject of informal consultations with relevant stakeholders.

53. Since the submission of the last report on the Completion Strategy, significant progress has been made in the area of the Tribunals' archives. In June 2007, the two Tribunals successfully put together elements of a common archival strategy as an integral part of the Completion Strategy. In September 2007, the two Tribunals also established an Advisory Committee on Archives (ACA), chaired by Justice Richard Goldstone. The committee will provide the Tribunals with an independent analysis of how best to ensure future accessibility of the archives and will review different locations that may be appropriate for housing the materials. The ACA is specifically tasked to engage in informal consultations with relevant stakeholders, including governments, civil society and NGOs, victims groups and international organizations and is expected to complete its work in the first half of 2008. Its findings will enable the Tribunals to provide informed recommendations to the Security Council for its consideration and ultimate decision-making.

9. Updated Prognosis Regarding the Implementation of the Completion Strategy

54. The Tribunal expects to complete one ongoing single-accused trial by early 2008. At the same time, the Tribunal expects that the cases of three of the six detainees will commence trials. It is hoped that the hearing of the evidence in those three cases will be completed by the middle of 2008. The cases of the other three of the six detainees are the subjects of applications by the Prosecutor for their referral to Rwanda for trial. However, they are ready to proceed on trial before the Tribunal should the applications for referral not be successful. The commencement of the trial proceedings in each case will depend on the availability of a court room and the capacity of a Trial Chamber.

55. The recent arrests of two accused, one of whom has been earmarked by the Prosecutor for trial in Arusha, has a direct impact on the current trial scheduling projections and modifications of current projections will be required should these accused face trial before the Tribunal. In addition, if any of the 14 indicted persons currently at large were to be arrested and tried before the Tribunal, the existing completion projections would necessarily require further amendment to enable these cases to be processed. This development might therefore also then impact upon the completion date for existing trials. Furthermore, the revocation of the transfer of one accused who was formerly referred to the Netherlands will also impact upon the current projections. Likewise, the decisions on referrals to domestic jurisdictions of six accused may also have an impact on the current projections. Should the requests for referral be denied, the cases relating to each of those accused will fall back within the workload of the Tribunal. Considering the current projections as to the courtrooms occupancy rate and assignments of Judges to other cases, there is likelihood that it will not be possible to dispose of these additional cases by December 2008.

56. The Tribunal's main challenge remains to be the processing of the four multi-accused cases. According to the current projections, the presentation of evidence in three proceedings (*Bizimungu*, *Butare* and *Military II* cases, involving four, six and four co-accused respectively) will be completed in 2008. The *Bizimungu* Trial Chamber anticipates the delivery of the judgement by December 2008. However, in the *Butare* and *Military II* cases, there is likelihood that the drafting of the judgements may run into 2009.

57. The *Karemera et al.* case has a complex procedural history. The trial commenced on 27 November 2003. Following the Appeals Chamber's decision of 28 September 2004 and its reasons of 22 October 2004, the trial began afresh. One of the accused, André Rwamakuba was subsequently severed from this case, and his trial commenced on 9 June 2005, and judgment was delivered on 20 September 2006. The *Karemera et al.* trial, involving the remaining three co-accused, commenced on 19 September 2005 before a different Section of Trial Chamber III. In January 2007, one of the Judges withdrew from the case for health reasons, rendering it necessary to stay the proceedings, pending the decision of the two remaining judges whether to continue the proceedings with a substitute Judge. Their affirmative decision was confirmed by the Appeals Chamber on 20 April 2007. The substitute Judge was appointed to the case on 1 May 2007. However, in accordance with the Tribunal's Rules, he joined the bench only after having certified that he had familiarized himself with the record of the proceedings, which he did on 8 June 2007. The *Karemera* trial resumed on 12 June 2007. In view of this complex history of the case and its scope and despite all the steps taken by the Trial Chamber to expedite this trial, while upholding the rights of the accused, it is expected that the trial proceedings will be completed in early 2009.

58. The Tribunal expects a number of judgements to be delivered early in 2008. One of those will be the multi-accused case against Bagosora and three others. It has been observed from past experience that appeals are normally lodged by all parties to the proceedings. More than one appeal may therefore be lodged in a single accused case since the Defence may appeal while the Prosecution also files a counter-appeal. In multiple accused trials, each accused can file an appeal and the Prosecution may file a counter appeal. It is therefore projected that the workload of the Appeals Chamber will increase substantially as a result of these judgements. Projections should be considered in light of the fact that the Judges of the Appeals Chamber also consider appeals from ICTY Trial Chambers. There will, at some stage, be a need to increase the number of Judges at the Appeals Chamber if there are to be any reasonable prospects of completing all appeals by 2010. This will require the amendment of the Statute.

CONCLUSION

59. This report shows that significant progress has been made towards the completion of the mandate of the Tribunal. It also indicates that the Tribunal is on schedule to complete its mandate on time, save for the cautions expressed above regarding the possibility of fugitives being arrested late combined with the inability to refer their cases to national jurisdictions for trial. The reported achievements of the Tribunal demonstrate its unwavering commitment to its mandate to bring justice and reconciliation to Rwanda and the Great Lakes region.

60. The Tribunal has arrested 75 individuals from the 90 indicted persons including the former Prime Minister Jean Kambanda, 14 other members of his interim Government of Rwanda as well as many senior political and military leaders, journalists, intellectuals, religious and youth leaders and businessmen. Judgements against 34 of those individuals have been delivered in first instance, 29 individuals were sentenced to prison terms ranging from five years to life imprisonment, and five persons were acquitted.

61. One additional judgement in a single-accused case will be delivered at first instance as well as two Appeals Chamber judgements involving four accused will be delivered between now and the end of December 2007. The hearings in four additional single-accused cases are already completed and it is anticipated that a fifth single-accused cases will be completed at first instance by the end of the year. Judgements concerning those five accused will be delivered in early 2008, in addition to the judgement in the *Military I* case, which involves four co-accused.

62. The Tribunal remains committed to meeting all deadlines included in the Completion Strategy. To this end, the Office of the President has completed extensive planning for 2008, in consultation with the Judges of all three Chambers, to ensure that the resources of the Tribunal continue to be maximized. The Tribunal estimates that of the cases currently being heard before the Tribunal, the evidence hearings in all but one will close by the end of 2008.

63. Despite this positive forecast, the Tribunal continues to seek new measures to increase efficiency and further expedite its work, whilst at all times continuing to safeguard the fair trial and due process rights of the accused. As stated above, the Tribunal's ability to maintain or improve upon its current level of efficiency is largely dependant on the retention of its highly experienced and qualified Judges and staff. The Tribunal therefore asks the Council and Member States to assist it by offering sufficient incentives to guarantee as much as possible that its Judges and staff remain with the Tribunal to continue with their diligent implementation of the Completion Strategy.

ANNEX I

ON-GOING TRIALS BETWEEN JUNE AND DECEMBER 2007: 24 ACCUSED IN 11 CASES

Case No.	Name	Former Title	Initial Appearance	TC	Comments
1	P. Nyiramasuhuko	Minister of Family and Women's Affairs	3 September 1997	TC2	"Butare Case" (joinder). Started on 12 June 2001. Completion mid-2008.
	A. S. Ntahobali	Interahamwe leader	17 October 1997		
	S. Nsabimana	Prefect of Butare	24 October 1997		
	A. Nteziryayo	Prefect of Butare	17 August 1998		
	J. Kanyabashi	Bourgmestre of Ngoma	29 November 1996		
	E. Ndayambaje	Bourgmestre of Muganza	29 November 1996		
2	C. Bizimungu	Minister of Health	3 September1999	TC2	"Bizimungu et al. / Government Case" (joinder). Started on 5 November 2003. Completion mid-2008.
	J. Mugenzi	Minister of Commerce	17 August 1999		
	J. Bicamumpaka	Minister of Foreign Affairs	17 August 1999		
	P. Mugiraneza	Minister of Civil Service	17 August 1999		
3	E. Karemera	Minister of Interior, V-P of MRND	7 April 1999	TC3	"Karemera et al. (joinder) Started on 27 November 2003. Started *de novo* on 19 September 2005. Completion and Judgement 2009.
	M. Ngirumpatse	D-G of Ministry of Foreign Affairs, President of MRND	7 April 1999		
	J. Nzirorera	President of National Assembly, S-G of MRND	7 April 1999		
4	A. Ndindilyimana	Chief of Staff of Gendarmerie	27 April 2000	TC2	"Military II Case" (joinder) Started on 20 September 2004. Completion in 2008. Judgement in 2009
	F-X Nzuwonemeye	FAR Battalion Commander	25 May 2000		
	I. Sagahutu	2IC of Reconn. Battalion	28 November 2000		
	A. Bizimungu	Chief of Staff of FAR	21 August 2002		
5	P. Zigiranyirazo	Businessman	10 October 2001	TC3	Started on 3 October 2005. Completion January 2008.
6	S. Bikindi	Musician	4 April 2002	TC3	Started on 18 September 2006. Completion early 2008.
7	S. Nchamihigo	Deputy Prosecutor	29 June 2001	TC3	Started on 25 September 2006. Completion January 2008.
8	E. Rukundo	Chaplain	26 September 2001	TC2	Started on 15 November 2006. Completion January 2008.

9	T. Renzaho	Prefect of Kigali	21 November 2002	TC1	Started on 8 January 2007. Completion January 2008.
10	H. Nsengimana	Rector, Christ-Roi College	16 April 2002	TC1	Started 22 June 2007. Completion mid-2008.
11.	J. Rugambarara	Bourgmestre of Bicumbi	15 August 2003	TC2	Guilty plea. Sentencing Judgement on 16 November 2007

Positions: 6 Ministers, 1 Parliamentarian, 3 Prefects, 1 Senior Admin, 1 Lesser Administrative Official, 3 Bourgmestres, 4 Military, 2 Clergy, 3 Others.

ANNEX 2(A)

PERSONS CONVICTED OR ACQUITTED: 34 ACCUSED IN 28 JUDGEMENTS

Case No.	Name	Former Title	Initial appearance	TC	Judgment
1	J. P. Akayesu	Bourgmestre of Taba	30 May 1996	TC1	2 September 1998
2	J. Kambanda	Prime Minister	1 May 1998	TC1	4 September 1998 (guilty plea)
3	O. Serushago	Businessman, Interahamwe leader	14 December 1998	TC1	5 February 1999 (guilty plea)
4	C. Kayishema	Prefect of Kibuye	31 May 1996	TC2	21 May 1999 (joinder)
	O. Ruzindana	Businessman	29 October 1996		
5	G. Rutaganda	Businessman, 2nd Vice-president of Interahamwe	30 May 1996	TC1	6 December 1999
6	A. Musema	Businessman	18 November 1997	TC1	27 January 2000
7	G. Ruggiu	RTLM Journalist	24 October 1997	TC1	1 June 2000 (guilty plea)
8	I. Bagilishema	Bourgmestre of Mabanza	1 April 1999	TC1	7 June 2001
9	G. Ntakirutimana	Doctor	2 December 1996	TC1	21 February 2003 (joinder)
	E. Ntakirutimana	Pastor	31 March 2000		
10	L. Semanza	Bourgmestre of Bicumbi	16 February 1998	TC3	15 May 2003
11	E. Niyitegeka	Minister of Information	15 April 1999	TC1	15 May 2003
12	J. Kajelijeli	Bourgmestre of Rukingo	19 April 1999	TC2	1 December 2003
13	F. Nahimana	RTLM Director	19 February 1997	TC1	"Media Case" (joinder) 3 December 2003
	H. Ngeze	Kangura Editor	19 November 1997		
	J.-B. Barayagwiza	Director, Ministry of Foreign Affairs	23 February 1998		
14	J. Kamuhanda	Minister of Culture and Education	24 March 2000	TC2	22 January 2004
15	A. Ntagerura	Minister of Transport	20 February 1997	TC3	"Cyangugu Case" (joinder) 25 February 2004
	E. Bagambiki	Prefect of Cyangugu	19 April 1999		
	S. Imanishimwe	Lieutenant in FAR	27 November 1997		
16	S. Gacumbitsi	Bourgmestre of Rusumo	20 June 2001	TC3	17 June 2004. Started on 28 July 2003.
17	E. Ndindabahizi	Minister of Finance	19 October 2001	TC1	15 July 2004. Started on 1 September 2003.
18	V. Rutaganira	Councillor of Mubuga	26 March 2002	TC3	14 March 2005 (guilty plea).

19	M. Muhimana	Councillor of Gishyita	24 November 1999	TC3	28 April 2005. Started on 29 March 2004.
20	A. Simba	Lieutenant-Colonel in FAR	18 March 2002	TC1	13 December 2005. Started on 30 August 2004.
21	P. Bisengimana	Bourgmestre of Gikoro	18 March 2002	TC2	13 April 2006 (guilty plea).
21	J. Serugendo	Technical Director, RTLM	30 September 2005	TC1	12 June 2006 (guilty plea).
22	J. Mpambara	Bourgmestre of Rukara	8 August 2001	TC1	12 September 2006. Started on 19 September 2005.
23	T. Muvunyi	Commander, Ecole Sous-officiers	8 November 2000	TC2	12 September 2006. Started on 28 February 2004.
24	A. Rwamakuba	Minister of Education	7 April 1999	TC3	20 September 2006. Started *de novo* on 9 June 2005.
25	A. Seromba	Priest, Kivumu Commune	8 February 2002	TC3	13 December 2006. Started on 20 September 2004.
26	J. Nzabirinda	Youth organizer	27 March 2002	TC2	23 February 2007 (guilty plea)
27.	F. Karera	Prefect of Kigali	26 October 2001	TC 1	Started on 9 January 2006. Judgment to be delivered by the end of 2007.
28.	J. Rugambarara	Bourgmestre of Bicumbi	15 August 2003	TC2	16 November 2007 (guilty plea)

ANNEX 2(B)

JUDGEMENTS TO BE DELIVERED IN THE FIRST HALF OF 2008:

9 ACCUSED IN 6 CASES

Case No.	Name	Former Title	Initial appearance	TC	Judgment
29	T. Bagosora	Dir. of Cabinet, Ministry of Defence	20 February 1997	TC1	"Military I Case" (joinder). Started on 2 April 2002. Closing briefs submitted. Judgement expected before mid-2008
	G. Kabiligi	Brigadier-General in FAR	17 February 1998		
	A. Ntabakuze	FAR Battalion Commander	24 October 1997		
	A. Nsengiyumva	Lieutenant-Colonel in FAR	19 February 1997		
30	S. Bikindi	Musician	4 April 2002	TC3	Started on 18 September 2006. Defence case closed 07 November 2007. Closing arguments on 10 March 2008. Judgement expected in middle of 2008.
31	S. Nchamihigo	Deputy Prosecutor	29 June 2001	TC3	Started on 25 September 2006. Defence case closed. Closing arguments in January 2008. Judgement expected mid 2008
32	E. Rukundo	Chaplain	26 September 2001	TC2	Started on 15 November 2006. Defence case closed 22 October 2007. Closing arguments on 28 January 2008. Judgement expected mid-2008.
33	T. Renzaho	Prefect of Kigali	21 November 2002	TC1	Started on 8 January 2007. Defence case closed. Closing argument on 14 February 2008.
34	P. Zigiranyirazo	Businessman	10 October 2001	TC3	Started on 3 October 2005. Defence case expected to close in December 2007.

ANNEX 3(A)

AWAITING TRIAL: 6 DETAINEES

Name	Former Title	Initial Appearance	TC	Number of OTP witnesses	Likely Start Date
C. Kalimanzira	Acting Minister of Interior	14 November 2005	TC1	Likely 20-25 at trial	January 2008
J.-B. Gatete	Bourgmestre of Murambi	20 September 2002	TC1	20	March 2008
E. Setako	Colonel	22 November 2004	TC1	25	August 2008
I. Hategekimana	Lieutenant, Commander of Ngoma Camp, Butare	28 February 2003	TC3	20	Late 2008 if not transferred
Y. Munyakazi	interahamwe leader	12 May 2004	TC1	18-20	Late 2008 if not transferred
G. Kanyarukiga	Businessman	22 July 2004	TC1	20-23	Late 2008 if not transferred

Positions: 1 Acting Minister, 1 Bourgmestre, 2 Military, 2 Others.

ANNEX 3(B)

AWAITING TRANSFER TO ICTR: 5 INDICTED PERSONS

Name	Former Title	Location
M. Bagaragaza	Director, National Tea Industry	The Netherlands – Referral revoked
A. Ngirabatware	Minister in the Interim Government	Germany
W. Munyeshyaka	Clergy	France
L. Bucyibaruta		France
D. Ntawukurirayo		France

ANNEX 3(C)

14 FUGITIVES

Augustin Bizimana	Idelphonse Nizeyimana
Felicien Kabuga	Ladislas Ntaganzwa
Fulgence Kayishema	Callixte Nzabonimana
Protias Mpiranya	Charles Ryandikayo
Bernard Munyagishari	Charles Sikubwabo
Gregoire Ndahimana	Jean Bosco Uwinkindi
Aloys Ndimbati	Pheneas Munyarugarama